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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

MEMRY CORPORATION,

No. C-04-03843 RMW

Plaintiff,

v.

KENTUCKY OIL TECHNOLOGY, N.V.,  
PETER BESELINK, MEMORY METALS  
HOLLAND, B.V.,

ORDER TAKING MEMRY'S MOTION TO  
DISMISS AND KOT'S MOTION FOR  
SANCTIONS UNDER SUBMISSION  
WITHOUT ORAL ARGUMENT

Defendants.

[Re Docket Nos. 635, 649]

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KENTUCKY OIL TECHNOLOGY, N.V.,

Counterclaimant,

v.

MEMRY CORPORATION and  
SCHLUMBERGER TECHNOLOGY  
CORPORATION,

Counterdefendants.

Scheduled for hearing on August 3, 2007 before the court are two related motions: the first is a motion by Memry Corporation ("Memry") challenging Kentucky Oil's ("KOT's") standing to assert its counterclaims against Memry; the second is a motion by KOT for sanctions, asserting that

ORDER TAKING MEMRY'S MOTION TO DISMISS AND KOT'S MOTION FOR SANCTIONS UNDER SUBMISSION WITHOUT  
ORAL ARGUMENT—No. C-04-03843 RMW

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1 Memry is in violation of the court's scheduling orders and its order dated March 23, 2007, which  
2 expressly set forth that "No further dispositive motions shall be filed." The motion to dismiss  
3 concerns whether KOT, as the successor-in-interest to United Stenting, Inc. (a foreign corporation  
4 that allegedly was restricted from transacting intrastate business in California because it did not first  
5 obtain a certificate of qualification), is barred from maintaining this civil action. Central to the  
6 motion for sanctions is the parties' dispute over whether Memry's motion to dismiss is a disguised  
7 motion for summary judgment brought without seeking the court's leave.

8 Having reviewed the parties' papers, the court does not believe that oral argument is  
9 necessary. Accordingly, the matter shall be deemed submitted on the papers. *See Civil L.R. 7-1(b).*  
10 Should the court later decide that it would benefit from oral argument, the parties will be notified.

11  
12 DATED: 8/1/07

  
RONALD M. WHYTE  
United States District Judge

1 | Notice of this document has been electronically sent to:

## 2 || Counsel for Memry:

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11 Counsel are responsible for distributing copies of this document to co-counsel that have not  
registered for e-filing under the court's CM/ECF program.

Dated: 8/1/07

/s/ MAG  
**Chambers of Judge Whyte**